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2 **2019-042 (1<sup>st</sup> READING): AN ORDINANCE AUTHORIZING THE CITY OF MYRTLE BEACH,**  
3 **SOUTH CAROLINA, TO EXECUTE AND DELIVER A LEASE PURCHASE AGREEMENT IN AN**  
4 **AMOUNT NOT EXCEEDING \$2,605,000 BETWEEN THE CITY AND THE LESSOR THEREOF**  
5 **TO DEFRAY THE COST OF ACQUIRING A CONVENTION CENTER HVAC SYSTEM AND**  
6 **CERTAIN ITEMS OF HEAVY EQUIPMENT FOR SOLID WASTE MANAGEMENT; AND OTHER**  
7 **MATTERS RELATING THERETO.**

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9 **Applicant/Purpose:** Staff/to finance acquisition of heavy equipment for convention  
10 center & solid waste management.

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12 **Brief:**

- 13 • Proposed ordinance approves City's entering into a 5-year Lease-Purchase
- 14 Agreement at an interest rate to be determined by competitive bids.
- 15 • The amortization schedule will be supplied upon acceptance of proposals.
- 16 • The total equipment package totals \$2,605,000 including:
  - 17 • HVAC system for the Convention Center (\$625,000).
  - 18 • 4 knuckleboom trucks (\$600,000).
  - 19 • 2 rear Loaders (\$480,000).
  - 20 • 30 compactors (\$900,000).

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22 **Issues:**

- 23 • Resolution R2019-041 (also on this agenda) establishes the City's intention to
- 24 finance the equipment purchase.
- 25 • This declaration of intent is necessary to protect the tax exempt status of the
- 26 lease agreement in the event that expenditures are incurred prior to closing on
- 27 the agreement.

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29 **Public Notification:** Normal meeting notification.

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31 **Alternatives:**

- 32 • Do not adopt ordinance; look for other financing options.
- 33 • Do not acquire this equipment.

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35 **Financial Impact:**

- 36 • The expenditure was anticipated in the current budget & capital improvement
- 37 plans.
- 38 • The proposal ensures that this agreement can be priced to reflect the lower tax-
- 39 exempt interest rates.

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41 **Manager's Recommendation:** I recommend 1<sup>st</sup> reading.

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43 **Attachment(s):** Lessee's Proposal, to include amortization schedule at 2<sup>nd</sup> reading.

CITY OF MYRTLE BEACH  
COUNTY OF HORRY  
STATE OF SOUTH CAROLINA

AN ORDINANCE AUTHORIZING THE CITY OF MYRTLE BEACH, SOUTH CAROLINA, TO EXECUTE AND DELIVER A LEASE PURCHASE AGREEMENT IN AN AMOUNT NOT EXCEEDING \$2,605,000 BETWEEN THE CITY AND THE LESSOR THEREOF TO DEFRAY THE COST OF ACQUIRING A CONVENTION CENTER HVAC SYSTEM AND CERTAIN ITEMS OF HEAVY EQUIPMENT FOR SOLID WASTE MANAGEMENT; AND OTHER MATTERS RELATING THERETO

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MYRTLE BEACH, SOUTH CAROLINA, IN COUNCIL DULY ASSEMBLED, AS FOLLOWS:

SECTION 1. The City Council of the City of Myrtle Beach, South Carolina (the "Council"), hereby finds and determines:

(a) The City of Myrtle Beach, South Carolina (the "City"), is an incorporated municipality located in Horry County, South Carolina (the "County"), and as such has all powers granted to municipalities by the Constitution and general laws of this State.

(b) Section 5-7-40 of the Code of Laws of South Carolina 1976, as amended, empowers all municipalities to own and possess real and personal property and such municipalities may lease any such property.

(c) The City desires to enter into a Lease Purchase Agreement (the "Lease Agreement") with \_\_\_\_\_ (the "Lessor"), for the purposes of financing the purchase of certain equipment, to wit: installment of an HVAC System at the Myrtle Beach Convention Center; and four (4) knuckleboom trucks and (2) rear loaders for Solid Waste Management operations (collectively, the "Equipment").

(d) The Lease Agreement will be subject to annual appropriation by the Council.

(e) Pursuant to a Request for Proposals for the above named equipment distributed to various vendors, the City received responsive proposals regarding the request and capital leasing of the Equipment authorized by this Ordinance. The winning proponent's financing offer was put forward by \_\_\_\_\_.

(f) It is in the best interest of the City to acquire the Equipment by entering into the Lease Agreement with the Lessor. The Lease Agreement will enable the City to purchase the Equipment for use by a department of City government, which is necessary to the proper functioning of the City.

SECTION 2. Acceptance of Proposal. The proposal of the Lessor, dated \_\_\_\_\_, 2019, a copy of which is attached hereto as Exhibit B, providing for, among other things, the terms of the lease/purchase transaction authorized by this Ordinance, is hereby approved and accepted.

1 The Lease Agreement shall be in an amount not exceeding \$2,605,000. The City Manager is hereby  
2 authorized to execute such lease agreement on behalf of the City.  
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4 SECTION 3. Approval of Transaction. The Council does hereby approve leasing the  
5 Equipment by the City from the Lessor pursuant to the Lease Agreement.  
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7 SECTION 4. Approval of Lease Agreement. The form, terms and provisions of the Lease  
8 Agreement be and hereby are approved and all of the terms, provisions and conditions thereof are  
9 hereby incorporated herein by reference as if the Lease Agreement were set out in this Ordinance  
10 in its entirety. A copy of the Lease Agreement shall be filed with the minutes of the meeting of  
11 City Council at which this Ordinance was enacted. The City Manager is hereby authorized,  
12 empowered and directed to execute, acknowledge and deliver, and the City Clerk is hereby  
13 authorized, empowered and directed to attest the Lease Agreement in the name and on behalf of  
14 the City. The Lease Agreement is to be in substantially the form now before this meeting and  
15 hereby approved, or with such changes therein as shall be approved by the execution thereof by  
16 the City Manager and the City Clerk, to constitute conclusive evidence of approval of any and all  
17 changes or revisions therein from the form of Lease Agreement now before this meeting.  
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19 SECTION 5. Authorization. The Mayor, the City Manager, the Finance Director, the Budget  
20 and Evaluation Director and the City Clerk, for and on behalf of the City, are fully empowered and  
21 authorized to take such further action and to execute and deliver such additional documents as  
22 may be necessary to effect the execution and delivery of the Lease Agreement in accordance with  
23 the terms and conditions therein set forth, and the transactions contemplated hereby and thereby,  
24 and the action of such officers in executing and delivering any of such documents, in such form as  
25 the City Manager shall approve, is hereby fully authorized.  
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27 SECTION 6. Federal Tax Covenant. The City, as lessee, agrees and covenants that it will  
28 not take any action which will, or fail to take any action which failure will, cause the interest  
29 portion of the Base Payments (as defined in the Lease Agreement) under the Lease Agreement to  
30 become includable in the gross income of the Lessor for federal income tax purposes pursuant to  
31 the provisions of the Code and regulations promulgated thereunder in effect on the date of original  
32 issuance of the Lease Agreement and that it will comply with all applicable provisions of Section  
33 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"),  
34 and any regulations promulgated thereunder, to maintain the exclusion from gross income for  
35 federal income tax purposes of the interest portion of the Base Payments and to that end the City  
36 shall:  
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- 38 (a) establish such funds, make such calculations and pay such amounts in the manner  
39 and at the times required in order to comply with the requirements of the Code  
40 relating to required rebates of certain amounts to the United States; and
- 41 (b) make such reports of such information at the times and places required by the  
42 Code.  
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45 SECTION 7. Bank Deduction Eligible. The City covenants that, in accordance with the  
46 provisions of the Code, the Lease Agreement is designated as a "qualified tax-exempt obligation,"  
47 as defined in the Code. The City and all subordinate entities thereof do not anticipate to issue  
48 more than \$10,000,000 in tax-exempt bonds or other tax-exempt obligations in 2019 (other than  
49 private activity bonds) except for qualified 501(c)(3) bonds. The City represents that the sum of  
50 all tax-exempt obligations (other than private activity bonds) issued by the City and all subordinate

1 entities thereof during calendar year 2019 is not reasonably expected to exceed \$10,000,000.

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4 SECTION 8. Filings with Central Repository. In compliance with Section 11-1-85 of the  
5 South Carolina Code, the City covenants that it will file or cause to be filed with a central  
6 repository for further availability in the secondary bond market when requested: (a) a copy of the  
7 annual audit of the City within thirty (30) days of the City's receipt thereof; and (b) within thirty  
8 (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the  
9 City, adversely affects more than five (5%) of the City's revenue or its tax base.

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11 SECTION 9. Effective Date. The provisions of this Ordinance shall be effective upon its  
12 adoption.

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18 \_\_\_\_\_  
19 Brenda Bethune, Mayor

20 (SEAL)

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22 \_\_\_\_\_  
23 Jennifer Stanford, Clerk

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26 Date of First Reading: 8-27-19

27  
28 Date of Second Reading:

EXHIBIT A

Schedule of Equipment to be leased/purchased under the Agreement

Item	Quantity	Unit Price	Total
Convention Center HVAC	1	\$ 625,000	\$ 625,000
Knuckleboom Trucks	4	150,000	600,000
Rear Loaders	2	240,000	480,000
Compactors	30	30,000	<u>900,000</u>
Grand Total			\$2,605,000

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Exhibit B

PROPOSAL OF THE LESSOR,  
INCLUDING FINANCING TERMS AND AMORTIZATION SCHEDULE